REMARKS

This Application has been carefully reviewed in light of the Office Action mailed June 4, 2003 (the "Office Action"). Applicants note with appreciation the removal of finality of the previous Office Action mailed January 29, 2003. Applicants respectfully request reconsideration and favorable action in this case.

Section 103 Rejections - Derby/Ahmed

The Office Action rejects Claims 1-6, 9-14 and 17-22 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,483,522 to Derby et al. ("*Derby*") in view of U.S. Patent No. 5,432,783 to Ahmed et al. ("*Ahmed*"). Applicants respectfully traverse these rejections for the reasons discussed below.

Claim 1 of the present application recites:

A method for providing an internal topology of a node within a network, comprising:
determining asymmetric connections between traffic bearing components in a network node;
determining an intranode connectivity between the traffic bearing components based on the asymmetric connections;
distributing a model of the node indicative of the intranode connectivity to a disparate node in a network with the node; and
using the model at the disparate node in determining a routing path through the network.

The Office Action states that:

Derby does not disclose the connections between the traffic bearing components as asymmetric. Ahmed discloses connections among switching entities that are bi-directional and asymmetric (col. 2, lines 5-8) in order to accommodate a larger capacity in one direction. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have asymmetric connections between traffic bearing components in the invention of Derby.

See Office Action, ¶ 1.

However, *Derby* specifically teaches away from using asymmetric connections between its intranode traffic bearing components. *Derby* discloses a routing diagram and

routing field for a message from a source node 70 to a subnode 81 of a destination node 72 via subnodes 75 and 79. *See Derby*, Figure 8 and col. 9, lines 23-55. *Derby* also discusses a reverse path for routing a message from subnode 81 of destination node 72 to source node 70. *See id.*, col. 9, lines 57-62. In this discussion, *Derby* indicates that reverse path accumulation enables the destination user application to send a reply to the message. *See id.* This is accomplished by merely reversing the original routing path such that the message travels from subnode 81 to node 70 via subnodes 79 and 75. *See id.* and Table 1. The indication that it is reverse path accumulation that enables message to travel from a destination node to a source node specifically teaches away from the use of asymmetric connections in *Derby*, because if the connections in *Derby* were asymmetric, then there would be an optimal routing path from the destination to the source that is different from the mere reversal of the original path between the source and the destination taught by *Derby*. Thus, using asymmetric connections in *Derby* directly conflicts with the teachings of *Derby*.

Moreover, "[t]he mere fact that references *can* be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination." M.P.E.P. § 2143.01. Thus, the mere allegation that the teachings of *Ahmed* would improve the teachings of *Derby*, as asserted by the Office Action, does not provide the required suggestion to combine.

Nothing in *Derby*, *Ahmed* or any other cited references suggests or motivates the proposed combination, nor does the Office Action provide any evidence that suggests the proposed modification. The Office Action speculates that "it would have been obvious to one skilled in the art at the time the invention was made to have asymmetric connections between traffic bearing components in the invention of Derby" but presents no evidence that suggests or motivates the combination. *See* Office Action, ¶ 1. Simply stating the standard of obviousness is not sufficient to establish the required motivation to combine the references. *See In re Denis Rouffet*, 1998 WL 400169 (Fed. Cir.). The Federal Circuit has held that broad conclusory statements by the Examiner regarding the teaching of multiple references, standing alone, are not "evidence." *See In re Dembiczak*, 175 F.3d 994, 999 (Fed. Cir. 1999). Instead, the Examiner must explain the specific understanding or principle within the knowledge of the skilled artisan that would motivate the combination. *See id.* Thus, the

Office Action's suggestion that it would have been obvious to have asymmetric connections between traffic bearing components in the invention of *Derby* does not provide the required motivation to combine the references. If the Examiner is relying on "common knowledge" or "well known" art in support of his rationale for combining the references, the Examiner is requested to produce a reference in support of his position pursuant to M.P.E.P. § 2144.03. If the Examiner is relying on personal knowledge to supply the required motivation or suggestion to combine, Applicants respectfully request that the Examiner produce an affidavit supporting such facts pursuant to M.P.E.P. § 2144.03.

For at least the reasons stated above, Applicants respectfully submit that Claim 1 is patentable over the cited art and request that the rejection of Claim 1 be withdrawn.

Claims 2-6 depend from Claim 1 and therefore include each of the elements of Claim 1. Applicants thus respectfully request that the rejection of Claims 2-6 be withdrawn.

The Office Action rejects Claims 9 and 17 using the same obviousness rejection used to reject Claim 1. *See* Office Action, ¶ 1. However, as discussed above with regard to Claim 1, *Derby* specifically teaches away from such combination, and there is no required motivation to combine *Derby* with *Ahmed* as contended by the Office Action. For at least these reasons, Applicants respectfully submit that Claims 9 and 17 are patentable over the cited art and request that the rejections of Claims 9 and 17 be withdrawn.

Claims 10-14 depend from Claim 9, and Claims 18-22 depend from Claim 17. Applicants thus respectfully request that the rejections of Claims 10-14 and 18-22 be withdrawn.

Section 103 Rejections - Derby/Ahmed/Le Boudec

The Office Action rejects Claims 7-8, 15-16 and 23-24 under 35 U.S.C. § 103(a) as being unpatentable over *Derby* in view of *Ahmed* and further in view of U.S. Patent No. 6,016,306 to Le Boudec et al. ("*Le Boudec*"). Applicants respectfully traverse these rejections for the reasons discussed below.

Claims 7-8 depend from Claim 1, Claims 15-16 depend from Claim 9 and Claims 23-24 depend from Claim 17. The Office Action rejects Claims 7-8, 15-16 and 23-24 as being unpatentable over *Dewey* in view of *Ahmed* as applied to Claims 1, 9 and 17. However, as discussed above with regard to Claim 1, *Derby* specifically teaches away from such combination, and there is no required motivation to combine *Derby* with *Ahmed* as contended by the Office Action. For at least these reasons, Applicants respectfully submit that Claims 7-8, 15-16 and 23-24 are patentable over the cited art and request that the rejections of these claims be withdrawn.
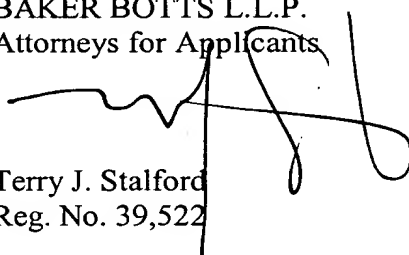
CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending Claims.

If the present application is not allowed and/or if one or more of the rejections is maintained, Applicants hereby request a telephone conference with the Examiner and further request that the Examiner contact the undersigned attorney to schedule the telephone conference.

No fee is believed to be due. However, the Commissioner is hereby authorized to charge any fees to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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